

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES E. BLAU,

Plaintiff,

v.

GERALD COVERT, et al.,

Defendants.

Case No. 2:18-cv-127

HON. JANE M. BECKERING

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OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff, a former state prisoner, alleges that while he was confined at Chippewa Correctional Facility (URF) in 2016, Defendants were deliberately indifferent to his serious medical condition, resulting in a failure to timely diagnose him with heart disease in violation of the Eighth Amendment. In September 2020, this Court dismissed Defendant Susan Wilson from this case. Defendants remaining in this case—Registered Nurses Gerald Covert, Tiffany Haske, and Joseph Damron—moved for summary judgment in January 2022. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant the motion and dismiss this case. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Defendants filed a response to Plaintiff's objections. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

As Defendants point out (Resp., ECF No. 89 at PageID.780), the first ten pages of Plaintiff's objections merely restate his response to Defendants' motion for summary judgment (Pl. Obj., ECF No. 88 at PageID.768–777; *see* Pl. Resp., ECF No. 83 at PageID.723–731, 735–736). This portion of Plaintiff's "objections" does not specifically reference—let alone identify error in—the Magistrate Judge's Report and Recommendation. *See* W.D. Mich. LCivR 72.3(b) (instructing that an objection to a magistrate judge's report and recommendation must "specifically identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for such objections").

On page ten of his objections, under the heading "The Magistrate Judge's Errors," Plaintiff indicates that the Magistrate Judge "accepts [Defendants'] claims of no chest pain by Plaintiff, despite [1] Plaintiff's contradictory claims that there were over twenty kites citing 'extreme chest pain' in addition to [2] Plaintiff's visit to ER due to extreme chest pain, [3] Plaintiff's being sent to health care by staff due to extreme chest pain, and [4] the allegation contained in Plaintiff's operative complaint and response to the Summary Judgment motion" (Pl. Obj., ECF No. 88 at PageID.777–778). However, the Magistrate Judge thoroughly considered the record in this case, including the four matters identified by Plaintiff in his objections (R&R, ECF No. 87 at PageID.762, 759, 758, 750–751). Plaintiff's mere disagreement with the Magistrate Judge's conclusion fails to demonstrate any factual or legal error in the Magistrate Judge's analysis.

Accordingly, this Court denies Plaintiff's objections and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Because this Opinion and Order resolves the last pending claims in this matter, this Court will also enter a Judgment consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision

would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 88) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 87) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 75) is GRANTED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: January 25, 2023

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge